



# House of Representatives

**File No. 593**

General Assembly

February Session, 2022

**(Reprint of File No. 132)**

Substitute House Bill No. 5313  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 22, 2022

**AN ACT CONCERNING TEMPORARY NURSING SERVICES  
AGENCIES, REPORTING OF INVOLUNTARY TRANSFERS AND  
DISCHARGES FROM NURSING HOMES AND RESIDENTIAL CARE  
HOMES, ELDER ABUSE TRAINING, LEGAL RIGHTS OF LONG-TERM  
CARE APPLICANTS AND A STUDY OF MANAGED RESIDENTIAL  
COMMUNITY ISSUES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2022*) (a) As used in this section and  
2 sections 2 and 3 of this act, (1) "health care facility" means a hospital,  
3 nursing home facility or residential care home as those terms are defined  
4 in section 19a-490 of the general statutes; (2) "nursing personnel" means  
5 an advanced practice registered nurse, a licensed practical nurse or a  
6 registered nurse licensed or issued a temporary permit to practice  
7 pursuant to chapter 378 of the general statutes, or a nurse's aide  
8 registered pursuant to chapter 378a of the general statutes; (3)  
9 "temporary nursing services" means services provided to a health care  
10 facility on a per diem or other temporary basis; and (4) "temporary

11 nursing services agency" means any person, firm, corporation, limited  
12 liability company, partnership or association that is engaged for hire in  
13 the business of providing temporary nursing services to a health care  
14 facility but does not include an individual who offers only his or her  
15 own temporary nursing services.

16 (b) Not later than October 1, 2022, the Commissioner of Public Health  
17 shall develop a system for a temporary nursing services agency that  
18 provides services in the state to register annually with the Department  
19 of Public Health. The commissioner may assess an annual registration  
20 fee of not more than seven hundred fifty dollars.

21 (c) Not later than January 1, 2023, no temporary nursing services  
22 agency shall provide temporary nursing services in the state unless it is  
23 registered pursuant to subsection (b) of this section.

24 (d) The Commissioner of Public Health shall establish requirements  
25 for a temporary nursing services agency, including, but not limited to,  
26 minimum qualifications for nursing personnel provided by such  
27 agency.

28 (e) Beginning not later than July 1, 2023, each temporary nursing  
29 services agency shall submit, in a form and manner prescribed by the  
30 Commissioner of Public Health, in consultation with the Commissioner  
31 of Social Services, an annual cost report for the previous calendar year.  
32 Such report shall be filed with the Commissioner of Public Health and  
33 may include, but shall not be limited to, (1) itemized revenues and costs  
34 for each such agency; (2) average number of nursing personnel  
35 employed by such agency; (3) average fees charged by such agency by  
36 type of nursing personnel and type of health care facility; (4) the states  
37 of the permanent residences of nursing personnel supplied by the  
38 agency to health care facilities in the state, aggregated by type of nursing  
39 personnel; and (5) any other information prescribed by the  
40 Commissioner of Public Health. Each such agency shall make available  
41 records, books, reports and other data relating to its operation at the  
42 request of the Commissioner of Public Health, or the commissioner's

43 designee. Records provided by a temporary nursing services agency  
44 pursuant to this subsection shall not be considered public records  
45 subject to disclosure pursuant to section 1-210 of the general statutes.

46 (f) The Commissioner of Public Health may adopt regulations in  
47 accordance with chapter 54 of the general statutes to implement the  
48 provisions of this section. The commissioner may adopt policies and  
49 procedures to implement the provisions of this section in advance of  
50 adopting regulations, provided notice of intent to adopt such  
51 regulations is posted on the eRegulations System not later than twenty  
52 days after adoption of such policies and procedures.

53 Sec. 2. (NEW) (*Effective July 1, 2022*) (a) A temporary nursing services  
54 agency shall enter into a written agreement with each health care facility  
55 to which the agency assigns its nursing personnel. Any such agreement  
56 entered into, amended or renewed on and after July 1, 2022, shall  
57 contain an assurance that assigned nursing personnel have appropriate  
58 credentials. Such agreement shall be on file at such temporary nursing  
59 services agency and such health care facility not later than fourteen days  
60 from the date of assignment of nursing personnel by such agency to the  
61 health care facility.

62 (b) Any health care facility that fails to have the written agreement  
63 described in subsection (a) of this section on file may be subject to  
64 disciplinary action in accordance with the provisions of chapter 368v of  
65 the general statutes and any applicable licensing regulations.

66 (c) Notwithstanding the provisions of subsections (a) and (b) of this  
67 section, no health care facility or subsidiary thereof that supplies  
68 temporary nursing services only to its own facility and does not charge  
69 a fee to such facility shall be subject to the provisions of this section.

70 Sec. 3. (NEW) (*Effective July 1, 2022*) (a) Any person aggrieved by any  
71 action of a temporary nursing services agency may petition the superior  
72 court for the judicial district in which the agency's temporary nursing  
73 services were rendered for relief, including temporary and permanent  
74 injunctions, or may bring a civil action for damages.

75 (b) Any temporary nursing services agency that violates any  
76 provision of section 1 or 2 of this act may be assessed a civil penalty by  
77 the court not to exceed three hundred dollars for each offense. Each  
78 violation shall be a separate and distinct offense and, in the case of a  
79 continuing violation, each day of continuance thereof shall be deemed  
80 to be a separate and distinct offense. The Commissioner of Public Health  
81 may request the Attorney General to bring a civil action in the superior  
82 court for the judicial district of Hartford for injunctive relief to restrain  
83 any further violation of section 1 or 2 of this act. The Superior Court may  
84 grant such relief upon notice and hearing.

85 Sec. 4. (*Effective July 1, 2022*) (a) As used in this section, (1) "nursing  
86 home facility" has the same meaning as provided in section 19a-490 of  
87 the general statutes, and (2) "nursing personnel", "temporary nursing  
88 services" and "temporary nursing services agency" have the same  
89 meanings as provided in section 1 of this act. The Commissioner of  
90 Social Services, in consultation with the Commissioner of Public Health,  
91 shall evaluate the rates charged by a temporary nursing services agency  
92 to a nursing home facility for temporary nursing services to determine  
93 whether and what changes may be needed in the regulation of such  
94 rates to ensure that a nursing home facility has adequate nursing  
95 personnel.

96 (b) Not later than October 1, 2023, the Commissioner of Social  
97 Services shall submit a report, in accordance with the provisions of  
98 section 11-4a of the general statutes, to the joint standing committees of  
99 the General Assembly having cognizance of matters relating to aging,  
100 human services and public health with recommendations based on the  
101 cost reports submitted by temporary nursing services agencies pursuant  
102 to section 1 of this act. The commissioner's report may include, but need  
103 not be limited to (1) what, if any, changes are needed in the regulation  
104 of rates charged by such agencies, and (2) how best to ensure, within  
105 available appropriations, that a nursing home facility is able to maintain  
106 adequate nursing personnel during a public health emergency declared  
107 pursuant to section 19a-131a of the general statutes.

108 Sec. 5. Subsection (a) of section 17b-340 of the 2022 supplement to the  
109 general statutes is repealed and the following is substituted in lieu  
110 thereof (*Effective July 1, 2022*):

111 (a) For purposes of this subsection, (1) a "related party" includes, but  
112 is not limited to, any company related to a chronic and convalescent  
113 nursing home through family association, common ownership, control  
114 or business association with any of the owners, operators or officials of  
115 such nursing home; (2) "company" means any person, partnership,  
116 association, holding company, limited liability company or corporation;  
117 (3) "family association" means a relationship by birth, marriage or  
118 domestic partnership; and (4) "profit and loss statement" means the  
119 most recent annual statement on profits and losses finalized by a related  
120 party before the annual report mandated under this subsection. The  
121 rates to be paid by or for persons aided or cared for by the state or any  
122 town in this state to licensed chronic and convalescent nursing homes,  
123 to chronic disease hospitals associated with chronic and convalescent  
124 nursing homes, to rest homes with nursing supervision, to licensed  
125 residential care homes, as defined by section 19a-490, and to residential  
126 facilities for persons with intellectual disability that are licensed  
127 pursuant to section 17a-227 and certified to participate in the Title XIX  
128 Medicaid program as intermediate care facilities for individuals with  
129 intellectual disabilities, for room, board and services specified in  
130 licensing regulations issued by the licensing agency shall be determined  
131 annually, except as otherwise provided in this subsection by the  
132 Commissioner of Social Services, to be effective July first of each year  
133 except as otherwise provided in this subsection. Such rates shall be  
134 determined on a basis of a reasonable payment for such necessary  
135 services, which basis shall take into account as a factor the costs of such  
136 services. Cost of such services shall include reasonable costs mandated  
137 by collective bargaining agreements with certified collective bargaining  
138 agents or other agreements between the employer and employees,  
139 provided "employees" shall not include persons employed as managers  
140 or chief administrators or required to be licensed as nursing home  
141 administrators, and compensation for services rendered by proprietors

142 at prevailing wage rates, as determined by application of principles of  
143 accounting as prescribed by said commissioner. Cost of such services  
144 shall not include amounts paid by the facilities to employees as salary,  
145 or to attorneys or consultants as fees, where the responsibility of the  
146 employees, attorneys, or consultants is to persuade or seek to persuade  
147 the other employees of the facility to support or oppose unionization.  
148 Nothing in this subsection shall prohibit inclusion of amounts paid for  
149 legal counsel related to the negotiation of collective bargaining  
150 agreements, the settlement of grievances or normal administration of  
151 labor relations. The commissioner may, in the commissioner's  
152 discretion, allow the inclusion of extraordinary and unanticipated costs  
153 of providing services that were incurred to avoid an immediate negative  
154 impact on the health and safety of patients. The commissioner may, in  
155 the commissioner's discretion, based upon review of a facility's costs,  
156 direct care staff to patient ratio and any other related information, revise  
157 a facility's rate for any increases or decreases to total licensed capacity  
158 of more than ten beds or changes to its number of licensed rest home  
159 with nursing supervision beds and chronic and convalescent nursing  
160 home beds. The commissioner may, in the commissioner's discretion,  
161 revise the rate of a facility that is closing. An interim rate issued for the  
162 period during which a facility is closing shall be based on a review of  
163 facility costs, the expected duration of the close-down period, the  
164 anticipated impact on Medicaid costs, available appropriations and the  
165 relationship of the rate requested by the facility to the average Medicaid  
166 rate for a close-down period. The commissioner may so revise a facility's  
167 rate established for the fiscal year ending June 30, 1993, and thereafter  
168 for any bed increases, decreases or changes in licensure effective after  
169 October 1, 1989. Effective July 1, 1991, in facilities that have both a  
170 chronic and convalescent nursing home and a rest home with nursing  
171 supervision, the rate for the rest home with nursing supervision shall  
172 not exceed such facility's rate for its chronic and convalescent nursing  
173 home. All such facilities for which rates are determined under this  
174 subsection shall report on a fiscal year basis ending on September  
175 thirtieth. Such report shall be submitted to the commissioner by  
176 February fifteenth. Each for-profit chronic and convalescent nursing

177 home that receives state funding pursuant to this section shall include  
178 in such annual report a profit and loss statement from each related party  
179 that receives from such chronic and convalescent nursing home fifty  
180 thousand dollars or more per year for goods, fees and services. No cause  
181 of action or liability shall arise against the state, the Department of Social  
182 Services, any state official or agent for failure to take action based on the  
183 information required to be reported under this subsection. The  
184 commissioner may reduce the rate in effect for a facility that fails to  
185 submit a complete and accurate report on or before February fifteenth  
186 by an amount not to exceed ten per cent of such rate. If a licensed  
187 residential care home fails to submit a complete and accurate report, the  
188 department shall notify such home of the failure and the home shall  
189 have thirty days from the date the notice was issued to submit a  
190 complete and accurate report. If a licensed residential care home fails to  
191 submit a complete and accurate report not later than thirty days after  
192 the date of notice, such home may not receive a retroactive rate increase,  
193 in the commissioner's discretion. The commissioner shall, annually, on  
194 or before April first, report the data contained in the reports of such  
195 facilities on the department's Internet web site. For the cost reporting  
196 year commencing October 1, 1985, and for subsequent cost reporting  
197 years, facilities shall report the cost of using the services of any [nursing  
198 pool employee] nursing personnel supplied by a temporary nursing  
199 services agency by separating said cost into two categories, the portion  
200 of the cost equal to the salary of the employee for whom the [nursing  
201 pool employee] nursing personnel supplied by a temporary nursing  
202 services agency is substituting shall be considered a nursing cost and  
203 any cost in excess of such salary shall be further divided so that seventy-  
204 five per cent of the excess cost shall be considered an administrative or  
205 general cost and twenty-five per cent of the excess cost shall be  
206 considered a nursing cost, provided if the total [nursing pool] costs of a  
207 facility for nursing personnel supplied by a temporary nursing services  
208 agency in any cost year are equal to or exceed fifteen per cent of the total  
209 nursing expenditures of the facility for such cost year, no portion of  
210 [nursing pool] such costs in excess of fifteen per cent shall be classified  
211 as administrative or general costs. The commissioner, in determining

212 such rates, shall also take into account the classification of patients or  
213 boarders according to special care requirements or classification of the  
214 facility according to such factors as facilities and services and such other  
215 factors as the commissioner deems reasonable, including anticipated  
216 fluctuations in the cost of providing such services. The commissioner  
217 may establish a separate rate for a facility or a portion of a facility for  
218 traumatic brain injury patients who require extensive care but not acute  
219 general hospital care. Such separate rate shall reflect the special care  
220 requirements of such patients. If changes in federal or state laws,  
221 regulations or standards adopted subsequent to June 30, 1985, result in  
222 increased costs or expenditures in an amount exceeding one-half of one  
223 per cent of allowable costs for the most recent cost reporting year, the  
224 commissioner shall adjust rates and provide payment for any such  
225 increased reasonable costs or expenditures within a reasonable period  
226 of time retroactive to the date of enforcement. Nothing in this section  
227 shall be construed to require the Department of Social Services to adjust  
228 rates and provide payment for any increases in costs resulting from an  
229 inspection of a facility by the Department of Public Health. Such  
230 assistance as the commissioner requires from other state agencies or  
231 departments in determining rates shall be made available to the  
232 commissioner at the commissioner's request. Payment of the rates  
233 established pursuant to this section shall be conditioned on the  
234 establishment by such facilities of admissions procedures that conform  
235 with this section, section 19a-533 and all other applicable provisions of  
236 the law and the provision of equality of treatment to all persons in such  
237 facilities. The established rates shall be the maximum amount  
238 chargeable by such facilities for care of such beneficiaries, and the  
239 acceptance by or on behalf of any such facility of any additional  
240 compensation for care of any such beneficiary from any other person or  
241 source shall constitute the offense of aiding a beneficiary to obtain aid  
242 to which the beneficiary is not entitled and shall be punishable in the  
243 same manner as is provided in subsection (b) of section 17b-97.  
244 Notwithstanding any provision of this section, the Commissioner of  
245 Social Services may, within available appropriations, provide an interim  
246 rate increase for a licensed chronic and convalescent nursing home or a



247 rest home with nursing supervision for rate periods no earlier than April  
248 1, 2004, only if the commissioner determines that the increase is  
249 necessary to avoid the filing of a petition for relief under Title 11 of the  
250 United States Code; imposition of receivership pursuant to sections 19a-  
251 542 and 19a-543; or substantial deterioration of the facility's financial  
252 condition that may be expected to adversely affect resident care and the  
253 continued operation of the facility, and the commissioner determines  
254 that the continued operation of the facility is in the best interest of the  
255 state. The commissioner shall consider any requests for interim rate  
256 increases on file with the department from March 30, 2004, and those  
257 submitted subsequently for rate periods no earlier than April 1, 2004.  
258 When reviewing an interim rate increase request the commissioner  
259 shall, at a minimum, consider: (A) Existing chronic and convalescent  
260 nursing home or rest home with nursing supervision utilization in the  
261 area and projected bed need; (B) physical plant long-term viability and  
262 the ability of the owner or purchaser to implement any necessary  
263 property improvements; (C) licensure and certification compliance  
264 history; (D) reasonableness of actual and projected expenses; and (E) the  
265 ability of the facility to meet wage and benefit costs. No interim rate  
266 shall be increased pursuant to this subsection in excess of one hundred  
267 fifteen per cent of the median rate for the facility's peer grouping,  
268 established pursuant to subdivision (2) of subsection (f) of this section,  
269 unless recommended by the commissioner and approved by the  
270 Secretary of the Office of Policy and Management after consultation  
271 with the commissioner. Such median rates shall be published by the  
272 Department of Social Services not later than April first of each year. In  
273 the event that a facility granted an interim rate increase pursuant to this  
274 section is sold or otherwise conveyed for value to an unrelated entity  
275 less than five years after the effective date of such rate increase, the rate  
276 increase shall be deemed rescinded and the department shall recover an  
277 amount equal to the difference between payments made for all affected  
278 rate periods and payments that would have been made if the interim  
279 rate increase was not granted. The commissioner may seek recovery of  
280 such payments from any facility with common ownership. With the  
281 approval of the Secretary of the Office of Policy and Management, the

282 commissioner may waive recovery and rescission of the interim rate for  
283 good cause shown that is not inconsistent with this section, including,  
284 but not limited to, transfers to family members that were made for no  
285 value. The commissioner shall provide written quarterly reports to the  
286 joint standing committees of the General Assembly having cognizance  
287 of matters relating to aging, human services and appropriations and the  
288 budgets of state agencies, that identify each facility requesting an  
289 interim rate increase, the amount of the requested rate increase for each  
290 facility, the action taken by the commissioner and the secretary pursuant  
291 to this subsection, and estimates of the additional cost to the state for  
292 each approved interim rate increase. Nothing in this subsection shall  
293 prohibit the commissioner from increasing the rate of a licensed chronic  
294 and convalescent nursing home or a rest home with nursing supervision  
295 for allowable costs associated with facility capital improvements or  
296 increasing the rate in case of a sale of a licensed chronic and convalescent  
297 nursing home or a rest home with nursing supervision if receivership  
298 has been imposed on such home. For purposes of this section,  
299 "temporary nursing services agency" and "nursing personnel" have the  
300 same meaning as provided in section 1 of this act.

301 Sec. 6. Subdivision (1) of subsection (f) of section 17b-340 of the 2022  
302 supplement to the general statutes is repealed and the following is  
303 substituted in lieu thereof (*Effective July 1, 2022*):

304 (1) Allowable costs shall be divided into the following five cost  
305 components: (A) Direct costs, which shall include salaries for nursing  
306 personnel, related fringe benefits and [nursing pool] costs for nursing  
307 personnel supplied by a temporary nursing services agency; (B) indirect  
308 costs, which shall include professional fees, dietary expenses,  
309 housekeeping expenses, laundry expenses, supplies related to patient  
310 care, salaries for indirect care personnel and related fringe benefits; (C)  
311 fair rent, which shall be defined in accordance with subsection (f) of  
312 section 17-311-52 of the regulations of Connecticut state agencies; (D)  
313 capital-related costs, which shall include property taxes, insurance  
314 expenses, equipment leases and equipment depreciation; and (E)  
315 administrative and general costs, which shall include (i) maintenance

316 and operation of plant expenses, (ii) salaries for administrative and  
317 maintenance personnel, and (iii) related fringe benefits. The  
318 commissioner may provide a rate adjustment for nonemergency  
319 transportation services required by nursing facility residents. Such  
320 adjustment shall be a fixed amount determined annually by the  
321 commissioner based upon a review of costs and other associated  
322 information. Allowable costs shall not include costs for ancillary  
323 services payable under Part B of the Medicare program.

324 Sec. 7. Subdivision (4) of subsection (a) of section 17b-340d of the 2022  
325 supplement to the general statutes is repealed and the following is  
326 substituted in lieu thereof (*Effective July 1, 2022*):

327 (4) Allowable costs shall be divided into the following five cost  
328 components: (A) Direct costs, which shall include salaries for nursing  
329 personnel, related fringe benefits and [nursing pool] costs for nursing  
330 personnel supplied by a temporary nursing services agency; (B) indirect  
331 costs, which shall include professional fees, dietary expenses,  
332 housekeeping expenses, laundry expenses, supplies related to patient  
333 care, salaries for indirect care personnel and related fringe benefits; (C)  
334 fair rent, which shall be defined in regulations adopted in accordance  
335 with subsection (b) of this section; (D) capital-related costs, which shall  
336 include property taxes, insurance expenses, equipment leases and  
337 equipment depreciation; and (E) administrative and general costs,  
338 which shall include maintenance and operation of plant expenses,  
339 salaries for administrative and maintenance personnel and related  
340 fringe benefits. For (i) direct costs, the maximum cost shall be equal to  
341 one hundred thirty-five per cent of the median allowable cost of that  
342 peer grouping; (ii) indirect costs, the maximum cost shall be equal to one  
343 hundred fifteen per cent of the state-wide median allowable cost; (iii)  
344 fair rent, the amount shall be calculated utilizing the amount approved  
345 pursuant to section 17b-353; (iv) capital-related costs, there shall be no  
346 maximum; and (v) administrative and general costs, the maximum shall  
347 be equal to the state-wide median allowable cost. For purposes of this  
348 subdivision, "temporary nursing services agency" and "nursing  
349 personnel" have the same meaning as provided in section 1 of this act.

350 Sec. 8. Subsection (a) of section 51-344a of the 2022 supplement to the  
351 general statutes is repealed and the following is substituted in lieu  
352 thereof (*Effective July 1, 2022*):

353 (a) Whenever the term "judicial district of Hartford-New Britain" or  
354 "judicial district of Hartford-New Britain at Hartford" is used or referred  
355 to in the following sections of the general statutes, it shall be deemed to  
356 mean or refer to the judicial district of Hartford on and after September  
357 1, 1998: Sections 1-205, 1-206, 2-48, 3-21a, 3-62d, 3-70a, 3-71a, 4-61, 4-160,  
358 4-164, 4-177b, 4-180, 4-183, 4-197, 5-202, 5-276a, 8-30g, 9-7a, 9-7b, 9-369b,  
359 10-153e, 12-208, 12-237, 12-268l, 12-312, 12-330m, 12-405k, 12-422, 12-448,  
360 12-454, 12-456, 12-463, 12-489, 12-522, 12-554, 12-565, 12-572, 12-586f, 12-  
361 597, 12-730, 13b-34, 13b-235, 13b-315, 13b-375, 14-57, 14-66, 14-67u, 14-  
362 110, 14-195, 14-311, 14-311c, 14-324, 14-331, 15-125, 15-126, 16-41, 16a-5,  
363 17b-60, 17b-100, 17b-238, 17b-531, 19a-85, 19a-86, [19a-123d,] 19a-425,  
364 19a-498, 19a-517, 19a-526, 19a-633, 20-12f, 20-13e, 20-29, 20-40, 20-45, 20-  
365 59, 20-73a, 20-86f, 20-99, 20-114, 20-133, 20-154, 20-156, 20-162p, 20-192,  
366 20-195p, 20-202, 20-206c, 20-227, 20-238, 20-247, 20-263, 20-271, 20-307,  
367 20-341f, 20-363, 20-373, 20-404, 20-414, 21a-55, 21a-190i, 22-7, 22-228, 22-  
368 248, 22-254, 22-320d, 22-326a, 22-344b, 22-386, 22a-6b, 22a-7, 22a-16, 22a-  
369 30, 22a-34, 22a-53, 22a-60, 22a-62, 22a-63, 22a-66h, 22a-106a, 22a-119,  
370 22a-180, 22a-182a, 22a-184, 22a-220a, 22a-220d, 22a-225, 22a-226, 22a-  
371 226c, 22a-227, 22a-250, 22a-255l, 22a-276, 22a-310, 22a-342a, 22a-344, 22a-  
372 361a, 22a-374, 22a-376, 22a-408, 22a-430, 22a-432, 22a-438, 22a-449f, 22a-  
373 449g, 22a-459, 23-5e, 23-65m, 25-32e, 25-36, 28-5, 29-143j, 29-158, 29-161z,  
374 29-323, 30-8, 31-109, 31-249b, 31-266, 31-266a, 31-270, 31-273, 31-284, 31-  
375 285, 31-339, 31-355a, 31-379, 35-3c, 35-42, 36a-186, 36a-187, 36a-471a, 36a-  
376 494, 36a-587, 36a-647, 36a-684, 36a-718, 36a-807, 36b-26, 36b-27, 36b-30,  
377 36b-50, 36b-71, 36b-72, 36b-74, 36b-76, 38a-41, 38a-52, 38a-134, 38a-139,  
378 38a-140, 38a-147, 38a-150, 38a-185, 38a-209, 38a-225, 38a-226b, 38a-241,  
379 38a-337, 38a-470, 38a-620, 38a-657, 38a-687, 38a-774, 38a-776, 38a-817,  
380 38a-843, 38a-868, 38a-906, 38a-994, 42-103c, 42-110d, 42-110k, 42-110p,  
381 42-182, 46a-56, 46a-100, 47a-21, 49-73, 51-44a, 51-81b, 51-194, 52-146j, 53-  
382 392d and 54-211a.

383 Sec. 9. Section 19a-535 of the 2022 supplement to the general statutes

384 is amended by adding subsection (k) as follows (*Effective July 1, 2022*):

385 (NEW) (k) A facility shall electronically report each involuntary  
386 transfer or discharge to the State Ombudsman, appointed pursuant to  
387 section 17a-405, (1) in a manner prescribed by the State Ombudsman,  
388 and (2) on an Internet web site portal maintained by the State  
389 Ombudsman in accordance with patient privacy provisions of the  
390 Health Insurance Portability and Accountability Act of 1996, P.L. 104-  
391 191, as amended from time to time.

392 Sec. 10. Section 19a-535a of the general statutes is amended by adding  
393 subsection (e) as follows (*Effective from passage*):

394 (NEW) (e) Not later than six months after the effective date of this  
395 section, a facility shall electronically report each involuntary transfer or  
396 discharge (1) in a manner prescribed by the State Ombudsman,  
397 appointed pursuant to section 17a-405, and (2) on an Internet web site  
398 portal maintained by the State Ombudsman in accordance with patient  
399 privacy provisions of the Health Insurance Portability and  
400 Accountability Act of 1996, P.L. 104-191, as amended from time to time.

401 Sec. 11. (*Effective from passage*) (a) The State Ombudsman, appointed  
402 pursuant to section 17a-405 of the general statutes, shall appoint and  
403 convene a working group of not more than eight members to study the  
404 following issues involving a managed residential community, as  
405 defined in section 19a-693 of the general statutes, that is not affiliated  
406 with a facility providing services under a continuing-care contract, as  
407 defined in section 17b-520 of the general statutes: (1) What notice should  
408 be provided to residents of managed residential communities of rental  
409 and other fee increases that exceed certain percentages, and (2) resident  
410 health transitions and determinations of care levels.

411 (b) The working group shall include, but not be limited to, the State  
412 Ombudsman, or the State Ombudsman's designee, and the following  
413 members, provided such members are willing and available to serve:  
414 Representatives of the (1) Connecticut Assisted Living Association, (2)  
415 Connecticut Association of Health Care Facilities/Connecticut Center

416 for Assisted Living, and (3) LeadingAge Connecticut.

417 (c) Chairpersons of the working group shall be the State  
418 Ombudsman, or the State Ombudsman's designee, and another member  
419 of the working group chosen by members of the group. The State  
420 Ombudsman shall schedule the first meeting of the working group not  
421 later than sixty days after the effective date of this section. The  
422 administrative staff of the joint standing committee of the General  
423 Assembly having cognizance of matters relating to aging shall serve as  
424 administrative staff of the working group.

425 (d) Not later than December 31, 2022, the working group shall submit  
426 a report on its findings and recommendations to the joint standing  
427 committee of the General Assembly having cognizance of matters  
428 relating to aging in accordance with the provisions of section 11-4a of  
429 the general statutes. The working group shall terminate on the date that  
430 it submits such report or December 31, 2022, whichever is later.

431 Sec. 12. Subsection (g) of section 17b-451 of the 2022 supplement to  
432 the general statutes is repealed and the following is substituted in lieu  
433 thereof (*Effective from passage*):

434 (g) The Commissioner of Social Services shall develop an educational  
435 training program to promote and encourage the accurate and prompt  
436 identification and reporting of abuse, neglect, exploitation and  
437 abandonment of elderly persons. Such training program shall be made  
438 available on the Internet web site of the Department of Social Services  
439 to mandatory reporters and other interested persons. The commissioner  
440 shall also make such training available in person or otherwise at various  
441 times and locations throughout the state as determined by the  
442 commissioner. Except for a mandatory reporter who has received  
443 training from an institution, organization, agency or facility required to  
444 provide such training pursuant to subsection (a) of this section, a  
445 mandatory reporter shall complete the educational training program  
446 developed by the commissioner, or an alternate program approved by  
447 the commissioner, not later than December 31, 2022, or not later than

448 ninety days after becoming a mandatory reporter.

449 Sec. 13. Section 17a-412 of the 2022 supplement to the general statutes  
450 is amended by adding subsection (i) as follows (*Effective from passage*):

451 (NEW) (i) Any person required to report suspected abuse, neglect,  
452 exploitation or abandonment pursuant to subsection (a) of this section  
453 shall complete the educational training program provided by the  
454 Commissioner of Social Services pursuant to subsection (g) of section  
455 17b-451, as amended by this act, or an alternate program approved by  
456 the commissioner, not later than December 31, 2022, or not later than  
457 ninety days after beginning employment as a person required to report  
458 suspected abuse, neglect, exploitation or abandonment pursuant to  
459 subsection (a) of this section.

460 Sec. 14. (NEW) (*Effective from passage*) (a) The Department of Social  
461 Services shall develop an advisory for medical assistance applicants for  
462 long-term medical care and home care concerning their right to seek  
463 legal assistance. The advisory shall state, at a minimum, that while  
464 applicants are not required to utilize an attorney, obtaining legal advice  
465 prior to completing such application for long-term medical care and  
466 home care may help protect their finances and rights.

467 (b) The department shall post the advisory developed pursuant to  
468 subsection (a) of this section not later than July 1, 2022, on its Internet  
469 web site and shall include the advisory in such applications for long-  
470 term medical care and home care not later than September 1, 2023.

471 Sec. 15. Sections 19a-123, 19a-123b and 19a-123d of the general  
472 statutes are repealed. (*Effective July 1, 2022*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2022	New section
Sec. 2	July 1, 2022	New section
Sec. 3	July 1, 2022	New section
Sec. 4	July 1, 2022	New section

Sec. 5	<i>July 1, 2022</i>	17b-340(a)
Sec. 6	<i>July 1, 2022</i>	17b-340(f)(1)
Sec. 7	<i>July 1, 2022</i>	17b-340d(a)(4)
Sec. 8	<i>July 1, 2022</i>	51-344a(a)
Sec. 9	<i>July 1, 2022</i>	19a-535
Sec. 10	<i>from passage</i>	19a-535a
Sec. 11	<i>from passage</i>	New section
Sec. 12	<i>from passage</i>	17b-451(g)
Sec. 13	<i>from passage</i>	17a-412
Sec. 14	<i>from passage</i>	New section
Sec. 15	<i>July 1, 2022</i>	Repealer section



The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
Public Health, Dept.	GF - Revenue Gain	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill results in a revenue gain to the Department of Public Health (DPH) associated with registration fees for temporary nursing services. The revenue gain is dependent on the fee established (up to \$750 annually) and the number of registrations.

The bill requires the Department of Social Services (DSS), in consultation with DPH, to evaluate rates charged to a nursing home facility for temporary nursing services and report by October 2023. This is not anticipated to result in a fiscal impact as the agencies have the resources and expertise necessary to conduct the evaluation.

The bill makes various other changes related to electronically reporting involuntary discharges or transfers, requiring the Long-Term Care Ombudsman to convene a working group, training requirements for mandatory reporters of elder abuse, and a DSS advisory regarding the rights of long-term care applicants to seek legal assistance. These provisions have no fiscal impact.

House "A" strikes the language in the underlying bill and results in

the fiscal impact described above.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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**OLR Bill Analysis****sHB 5313 (as amended by House "A")\******AN ACT CONCERNING REGISTRATION OF TEMPORARY NURSING SERVICES AGENCIES AND MAXIMUM RATES FOR TEMPORARY NURSING SERVICES AT NURSING HOME FACILITIES.*****SUMMARY**

This bill makes various unrelated changes affecting long-term care facilities and services. Principally, it:

1. repeals current statutes on nursing pools and replaces them with provisions for “temporary nursing services agencies” with the same requirements (§§ 1-8 & 15);
2. requires the Department of Public Health (DPH) commissioner, by October 1, 2022, to establish an annual registration system for these agencies and authorizes her to charge an annual registration fee of up to \$750 (§ 1);
3. requires the Department of Social Services (DSS) commissioner to evaluate rates these agencies charge nursing homes and report her recommendations to the Aging, Human Services, and Public Health committees by October 1, 2023 (§ 4);
4. requires nursing homes and residential care homes (RCHs) to electronically report each involuntary discharge or transfer to the Long-Term Care Ombudsman and on a website she maintains (§§ 9 & 10);
5. requires the Long-Term Care ombudsman to convene a working group to study specified issues involving managed residential communities (MRCs) that are not affiliated with continuing care retirement communities (§ 11);

6. generally requires mandated elder abuse reporters to complete the DSS elder abuse training program, or another DSS-approved program, by December 31, 2022, or within 90 days after becoming a mandated elder abuse reporter (§§ 12 & 13); and
7. requires DSS to (a) develop an advisory for Medicaid long-term care and home care applicants on their right to seek legal assistance, (b) post the advisory on its website by July 1, 2022, and (c) include the advisory in its applications by September 1, 2023 (§ 14).

\*House Amendment "A" replaces the original bill (File 132). It primarily (1) allows, rather than requires, DPH to adopt regulations on temporary nursing services agencies; (2) eliminates the requirement that DSS set maximum rates for these agencies, instead requiring the department to study rates these agencies charge nursing homes; and (3) adds provisions on electronic reporting of nursing home and RCH involuntary transfers, the MRC working group, mandated elder abuse reporter training, and an advisory for Medicaid applicants on their legal rights.

EFFECTIVE DATE: Upon passage, except that provisions on (1) temporary nursing services agencies and (2) electronically reporting nursing home involuntary transfers and discharges take effect July 1, 2022.

### **§§ 1-8 & 15 — TEMPORARY NURSING SERVICES AGENCIES**

The bill repeals current statutes on nursing pools and replaces them with provisions for "temporary nursing services agencies" with the same requirements. Under the bill, these agencies provide temporary nursing services to nursing homes, residential care homes, and hospitals on a per diem or temporary basis.

It requires the DPH commissioner, by October 1, 2022, to establish an annual registration system for these agencies and authorizes her to charge an annual registration fee of up to \$750. Starting by January 1, 2023, it prohibits temporary nursing services agencies from providing

services in the state unless they obtain DPH registration.

The bill also makes related technical and conforming changes, replacing references to nursing pools with temporary nursing services agencies in various statutes (§§ 5-8).

***Definitions (§ 1)***

“Nursing personnel” means advanced practice registered nurses, licensed practical nurses and registered nurses (including those issued temporary permits), and nurse’s aides.

A “temporary nursing services agency” is any person, firm, corporation, limited liability company, partnership, or association that is hired to provide temporary nursing services to health care facilities. It excludes individuals who offer only their own temporary nursing services.

***Agency Requirements (§ 1)***

The bill requires the DPH commissioner to establish requirements for temporary nursing services agencies, including minimum qualifications for nursing personnel the agencies provide to health care facilities.

***Annual Cost Reports (§ 1)***

Starting July 1, 2023, the bill requires temporary nursing services agencies to submit to the DPH commissioner annual cost reports in a manner the commissioner prescribes, in consultation with the DSS commissioner.

Under the bill, the cost reports must include the (1) agency’s itemized revenues and costs; (2) average number of nursing personnel the agency employs; (3) average fees the agencies charge by type of nursing personnel and health care facility; (4) nursing personnel’s state of permanent residence, aggregated by the type of nursing personnel; and (5) any other information the DPH commissioner requires.

The bill also requires agencies to make available to DPH, upon request, records, books, reports, and other data related to their operation. Records that agencies provide are not subject to disclosure

under the Freedom of Information Act.

### **Regulations (§ 1)**

The bill permits the DPH commissioner to adopt regulations to implement the bill's requirements. She may also adopt implementing policies and procedures while in the process of adopting the regulations, so long as she posts her intent to adopt regulations in the eRegulations System within 20 days after adopting the policies and procedures.

### **Written Agreements (§ 2)**

As under current law for nursing pools, the bill requires temporary nursing services agencies to enter into a written agreement with a health care facility that ensures that the assigned nursing personnel have appropriate credentials. The agreement must be on file at both the agency and facility within 14 days after the nursing personnel's assignment.

The bill subjects health care facilities who fail to do so to DPH disciplinary action (e.g., probation, letter of reprimand, or license suspension), as under current law for nursing pools.

The bill exempts from the written agreement requirement a health care facility, or its subsidiary, that supplies temporary nursing services only to its own facility without charge.

### **Appeals (§ 3)**

As under current law for nursing pools, the bill permits a person aggrieved by a temporary nursing services agency to petition the Superior Court for the judicial district where the agency's services were provided. The aggrieved person may seek relief, including temporary and permanent injunctions, or bring a civil action for damages.

### **Civil Penalties (§ 3)**

As under current law for nursing pools, the bill authorizes the court to assess a civil penalty of up to \$300 per violation against a temporary nursing services agency that violates the bill's provisions. It specifies that each violation is a separate and distinct offense, and in the case of a

continuing violation, each day it continues is a separate and distinct offense.

It also allows the DPH commissioner to request the attorney general to bring a civil action in the Hartford Superior Court for injunctive relief to restrain any further violation. The Superior Court must grant the relief after a notice and hearing.

#### **Agency Rates (§4)**

The bill requires the DSS commissioner, in consultation with the DPH commissioner, to evaluate temporary nursing services agency rates charged to nursing homes to determine whether changes are needed in regulating these rates to ensure nursing homes have adequate personnel.

Under the bill, the DSS commissioner must report to the Aging, Human Services, and Public Health committees by October 1, 2023, on her recommendations, which must be based on agency cost reports submitted to DPH (see § 1). The report may include (1) any changes needed in regulating agency rates and (2) how best to ensure, within available appropriations, that nursing homes are able to maintain adequate nursing personnel during a declared public health emergency.

#### **§§ 9 & 10 — ELECTRONIC REPORTING OF INVOLUNTARY TRANSFERS OR DISCHARGES IN NURSING HOMES AND RCHS**

The bill requires nursing homes and RCHs to electronically report each involuntary discharge or transfer (1) to the Long-Term Care Ombudsman, in a manner she prescribes, and (2) on a website the ombudsman maintains in accordance with federal HIPAA privacy protections.

Under the bill, RCHs must begin reporting this information within six months after the bill's passage. (In practice, nursing homes already do this.)

By law, a nursing home or RCH may involuntarily transfer or discharge a resident only if the (1) facility cannot provide the resident

adequate care, (2) resident's health has improved to the point that he or she no longer needs the home's services, (3) health or safety of individuals in the facility are endangered, (4) resident failed to pay for care after reasonable notice, or (5) facility closes. Residents and their representatives must be notified in writing of the discharge at least 30 days in advance (CGS §§19a-535 and 535a). Federal law also requires nursing homes to give the Long-Term Care Ombudsman a copy of the notice (42 CFR §483.15 (c)(3)(i)).

## **§ 11 — WORKING GROUP ON MANAGED RESIDENTIAL COMMUNITIES**

The bill requires the Long-Term Care Ombudsman to appoint and convene a working group of up to eight members to study certain issues involving MRCs that are not affiliated with a facility providing services to continuing care retirement communities. Specifically, the working group must study (1) what notice MRCs should provide residents about rent and other fee increases that exceed certain percentages and (2) resident health transitions and determinations of care levels.

### ***Membership***

Under the bill, working group members must at least include:

1. the Long-Term Care Ombudsman, or her designee, and
2. representatives of the Connecticut Assisted Living Association, Connecticut Association of Health Care Facilities/Connecticut Center for Assisted Living, and LeadingAge Connecticut (provided these members are willing and able to serve).

The working group chairpersons are (1) the Long-Term Care Ombudsman, or her designee, and (2) another chairperson selected by the working group from among its members.

### ***Meetings and Staff***

The bill requires the Long-Term Care Ombudsman to schedule the working group's first meeting within 60 days of the bill's passage. The Aging Committee's administrative staff also serve in this capacity for



the working group.

### **Report**

The bill requires the working group to submit its findings and recommendations to the Aging Committee by December 31, 2022. The working group terminates on this date, or when it submits its report, whichever is later.

### **§§ 12 & 13 — ELDER ABUSE REPORTER TRAINING**

The bill generally requires mandated elder abuse reporters to complete the DSS elder abuse training program, or another DSS-approved program, by December 31, 2022, or within 90 days after becoming a mandated elder abuse reporter (see BACKGROUND). The requirement does not apply to any reporter who has already received the training from an entity that must provide the training to its employees. By law, any institution, organization, agency, or facility that employs people to care for seniors age 60 and older must (1) provide mandatory training on detecting potential elder abuse and (2) inform employees of their obligation to report such incidences.

By law, the DSS commissioner must develop a training program on identifying and reporting elder abuse, neglect, exploitation, and abandonment and make the program available on the department's website and in-person or otherwise throughout the state.

### **§ 14 — ADVISORY FOR MEDICAID APPLICANTS**

The bill requires DSS to develop an advisory for Medicaid long-term care and home care applicants on their right to seek legal assistance. At a minimum, it must state that while applicants are not required to use an attorney, obtaining legal advice before completing their application may help protect their finances and rights.

Under the bill, DSS must post the advisory on its website by July 1, 2022, and include the advisory in its applications by September 1, 2023.

### **BACKGROUND**

#### ***Mandatory Elder Abuse Reporters***

Existing law requires doctors, nurses, long-term care (LTC) facility administrators and staff, other health care personnel, and certain other professionals to report suspected abuse, neglect, abandonment, or exploitation of the elderly and LTC facility residents to DSS within 72 hours of suspecting the abuse or face penalties. They must also report to the department if they suspect an elderly person needs protective services (CGS §§ 17a-412 & 17b-451).

**Related Bills**

HB 5195 (File 101), favorably reported by the Aging Committee, contains the same provisions requiring nursing homes to report involuntary transfers and discharges to the Long-Term Care Ombudsman.

HB 5196 (File 102), favorably reported by the Aging Committee, contains the same provisions requiring RCHs to report involuntary transfers and discharges to the Long-Term Care Ombudsman.

sHB 5314 (File 117), favorably reported by the Aging Committee, contains the same provisions requiring mandated elder abuse reporters to complete the DSS elder abuse training program, or another DSS-approved program, by December 31, 2022, or within 90 days after becoming a mandated elder abuse reporter.

**COMMITTEE ACTION**

Aging Committee

Joint Favorable Substitute

Yea 9      Nay 6      (03/10/2022)

Public Health Committee

Joint Favorable

Yea 31      Nay 0      (04/13/2022)